
Public Utilities Commission of the State of California

Results of Public Agenda 3173

Meeting Held on Thursday, May 25, 2006 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

John A. Bohn

Geoffrey F. Brown

Rachelle B. Chong

Dian M. Grueneich

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <i>Open to the Public</i>
Monday, June 12, 2006 (San Francisco)	Thursday, June 15, 2006 (San Francisco)
Monday, June 26, 2006 (San Francisco)	Thursday, June 29, 2006 (San Francisco)
Monday, July 17, 2006 (San Francisco)	Thursday, July 20, 2006 (San Francisco)
Monday, August 21, 2006 (San Francisco)	Thursday, August 24, 2006 (San Francisco)
Tuesday, September 05, 2006 (San Francisco)	Thursday, September 07, 2006 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



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PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
-

Public Comment:

Re 28: Gary Jennings, Berkeley, CA

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Orders and Resolutions

1

Res TL - 19075

[5593]

Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.

Outcome Approved

[Res TL-19075](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

2

Res ALJ 176-3173

[5596]

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

Outcome Approved

[Res ALJ 176-3173](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

3

[5376]

R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.

This decision grants \$58,373.00 in intervenor compensation to The Utility Reform Network (TURN) for its further contributions to D04-05-057, approximately \$78,085 less than TURN requested. Only amounts directly attributable to preparing and filing TURN's motion to intervene in federal litigation seeking to overturn D04-05-057, and amounts for preparing its compensation claim, have been allowed.

(Comr Peevey - ALJ McVicar)

Agenda 3170, Item 5 4/13/2006 (Brown);

Agenda 3171, Item 3 4/27/2006 (Grueneich);

Agenda 3172, Item 3 5/11/2006 (Grueneich)

Outcome Held (6/15/06, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

4

[5384]

Res E-3979 - San Diego Gas & Electric Company (SDG&E).

SDG&E requests approval of the Pacific Wind renewable resource procurement contract. This contract is approved without modifications. (Advice Letter 1734-E, filed October 2, 2005)

Agenda 3169, Item 15 3/15/2006 (Staff);

Agenda 3170, Item 6 4/13/2006 (Staff);

Agenda 3171, Item 4 4/27/2006 (Staff);

Agenda 3172, Item 4 5/11/2006 (Staff)

Outcome Approved (Comr. Bohn recused himself from this agenda item and was not part of the quorum in its consideration.

)

[Res E-3979](#)

Yes: (Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

5

[5438]

Res T-17002

This resolution adopts comprehensive procedures and guidelines for eligible telecommunications carrier designation and requirements for eligible telecommunications carriers effective July 1, 2006 in response to Federal Communications Commission Report and Order 05-46.

Agenda 3170, Item 24 4/13/2006 (Staff);

Agenda 3171, Item 7 4/27/2006 (Staff);

Agenda 3172, Item 5 5/11/2006 (Staff)

Outcome Approved

[Res T-17002](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

6

[5529]

A02-12-027 - Southern California Gas Company.

For authority to update its gas revenue requirement and base rates. A02-12-028, I03-03-016 - Related matters. This decision clarifies the record and adopts a correct forecast for test year 2004 and attrition year 2005 of the costs billed by Southern California Edison Company to San Diego Gas & Electric Company. These proceedings are closed.

(Comr Brown - ALJ Long)

Agenda 3171, Item 19 4/27/2006 (Bohn);

Agenda 3172, Item 8 5/11/2006 (Bohn)

Outcome Held (6/15/06, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

7

[5585]

Res W-4599 - RR Lewis Small Water Company (RR Lewis).

This resolution authorizes RR Lewis a general rate increase producing additional annual revenue of \$56,592 or 220.13% in test year 2005.

Outcome Approved

[Res W-4599](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

8

[5589]

R03-10-003 - Order Instituting Rulemaking to implement AB 117 concerning community choice aggregation.

R04-03-017 - Related matters. This decision denies the motion of Michael Kyes, filed September 7, 2005. The motion asks the Commission to permit the purchase and sale of power by private aggregators based on Kyes' interpretation of Public Utilities Code Section 366(b). This decision finds the Commission is barred from permitting private aggregation by Water Code Section 80110. These proceedings are closed.

(Comr Peevey - ALJ Malcolm)

Outcome Held (6/15/06, Consent Agenda. Further consideration.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

9

[5590]

R04-04-026 - Order Instituting Rulemaking to implement the California Renewables Portfolio Standard Program.

This decision denies the petition of Southern California Edison Company (SCE) for modification of certain aspects of Decision 05-07-039 that address SCE's use of geothermal output from Calpine's Geysers geothermal facility for compliance with SCE's obligations under the Renewables Portfolio Standard program. This proceeding remains open.

(Comr Peevey - ALJ Simon)

Outcome Signed

[D06-05-023](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

10

[5592]

R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell and Verizon California Incorporated.

I01-09-002 - Related matters. This decision determines that the New Regulatory Framework (NRF) proceeding has been superseded by the Uniform Regulatory Framework proceeding. As a result of this determination, the NRF proceeding is closed and the limited rehearing of D03-10-088, which was issued in the NRF proceeding, is canceled. The NRF proceeding will be reopened, as necessary, to address requests for intervenor compensation. This proceeding is closed.

(Comr Peevey - ALJ Kenney)

Outcome Signed

[D06-05-024](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

11
[5616]

R06-03-004 - Order Instituting Rulemaking regarding policies, procedures and rules for the California Solar Initiative, the Self-Generation Incentive Program and other distributed generation issues.

This decision affirms the ALJ ruling of April 24, 2006, which reduces solar photovoltaic incentives from \$2.80/watt to \$2.50/watt for all 2006 program applications that exceed the first 50 megawatts in conditional reservation status.

(Comr Peevey - ALJ Duda)

Outcome Signed

[D06-05-025](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

12
[5617]

A04-07-049 - San Diego Gas & Electric Company (SDG&E).

This decision denies SDG&E's proposal to sell land in SDG&E's transmission corridor in San Juan Capistrano to Whispering Hills, LLC, unless price is increased to avoid ratepayer and shareholder subsidization of private developer.

(Comr Brown - ALJ Allen)

Outcome Signed

[D06-05-026](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

13
[5618]

A05-09-009 - Pacific Gas and Electric Company (PG&E).

This decision grants PG&E's request that it be allowed to recover in rates the cost of franchise fees it pays to cities and counties in conjunction with the revenues it collects to repay Rate Reduction Bonds (RRBs), authorized by D97-09-055. Currently, PG&E does not recover the cost of franchise fees paid to local governments in conjunction with RRB revenues it collects because it failed to include the necessary ratemaking mechanisms in the tariffs it filed to implement D97-09-055. PG&E now seeks to correct this oversight and requests recovery of the associated franchise fee costs, about \$2 million per year, through an entry in the Preliminary Statement Part CZ - Distribution Revenue Adjustment Mechanism. Today's decision authorizes PG&E to modify the Preliminary Statement in its tariffs to allow recovery of these costs on a prospective basis only. This proceeding is closed.

(Comr Peevey - ALJ Patrick)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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- 14**
[5628] **Res W-4601 - Golden State Water Company (Golden State).**
This resolution suspends Golden State's request to withdraw water service under contract to the Calipatria State Prison and orders Golden State to negotiate with the Calipatria State Prison, or else file by application. (Advice Letter 1206-W, filed January 5, 2006)
Outcome Held (6/15/06, Consent Agenda.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 15**
[5629] **Res E-3975 - AT&T, Inc. (AT&T).**
AT&T requests a deviation from California Public Utilities Code Section 320. This resolution grants the request and authorizes AT&T to add approximately twenty miles of aerial fiber optic cables along Highway 89 and Highway 50 on existing joint poles in El Dorado County. Aerial fiber optic cables begin at the intersection of Placer and El Dorado County line, extending south along Highway 89 to South Lake Tahoe; and resume along Highway 50 from AT&T's Meyers Central Office to the Tamarack Central Office. Highway 89 and Highway 50 are within the state scenic corridors.
Agenda 3172, Item 19 5/11/2006 (Staff)
Outcome Held (6/15/06, Consent Agenda.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 16**
[5630] **Res L-330**
This resolution authorizes disclosure of certain records concerning the Consumer Protection and Safety Division's investigation of an August 3, 2004 electric incident in Ferndale, California.
Outcome Approved
[Res L-330](#)
Yes: (Bohn, Brown, Chong, Grueneich, Peevey)
No: (none)
Abstain: (none)
Absent: (none)
- 17**
[5631] **Res L-331**
This resolution authorizes disclosure of certain records concerning the Consumer Protection and Safety Division's investigation of a December 2, 2004 electric incident in Santa Monica, California.
Outcome Approved
[Res L-331](#)
Yes: (Bohn, Brown, Chong, Grueneich, Peevey)
No: (none)
Abstain: (none)
Absent: (none)
-

18

[5632]

Res L-332

This resolution authorizes disclosure of certain documents relating to gas incidents during 2003, 2004, 2005 in the greater Los Angeles area, and documents relating to consumer complaints about gas leaks for 2004 and 2005 involving the Southern California Gas Company and the Southern California Edison Company, subject to limitations to protect the privacy interests of certain consumers.

Outcome Held (6/15/06, Consent Agenda.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

19

[5640]

A05-12-028 - YMax Communications Corp. (Applicant).

This decision grants Applicant a certificate of public convenience and necessity as a provider of limited facilities-based and resold local exchange service. This proceeding is closed.

(Comr Bohn - ALJ Bemserfer)

Outcome Signed[D06-05-027](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

20

[5641]

A05-12-025 - LMDS Holdings, Inc. (Applicant).

This decision grants Applicant a certificate of public convenience and necessity to provide resale and facilities-based competitive local and interexchange services. This proceeding is closed.

(Comr Bohn - ALJ Bemserfer)

Outcome Signed[D06-05-028](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

21

[5644]

A05-12-026 - San Diego Gas & Electric Company (SDG&E).

This decision authorizes SDG&E a short-term debt authority of \$550,000,000, in excess of the 5% limitation cited in Public Utilities Code Section 823(c). This proceeding is closed.

(Exam Coughlan)

Outcome Signed[D06-05-029](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

22

[5645]

Res T-17015 - AT&T California (AT&T).

AT&T requests approval of two CMRS interconnection agreements, one between AT&T and Carreau Enterprises, Inc. dba Yellow Pager Communications Systems, and one between AT&T and Banner Communications & Electronics. Both agreements are pursuant to Section 252 of the Telecommunications Act of 1996. (Advice Letter (AL) 28234 (Banner), filed March 24, 2006 and AL 28243 (Yellow Pager), filed March 27, 2006)

Outcome Approved[Res T-17015](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

23

[5646]

Res W-4602 - Riverview Estates Water Company (Riverview).

This resolution authorizes Riverview an interim general rate increase subject to refund, producing an increase of \$678 or 15.8% relative to 2004 gross revenues.

Outcome Approved[Res W-4602](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

24

[5650]

R03-04-003 - Order Instituting Rulemaking on the Commission's own motion to comply with the mandates of Senate Bill 1563 regarding deployment of advanced telecommunications technologies.

This decision awards Disability Rights Advocates (DRA) \$35,461.17 in compensation for its substantial contributions to D05-05-013. Today's award is approximately 65% of the amount requested to reflect reduced attorney rates and a disallowance of costs incurred prior to the date DRA sought party status. This proceeding is closed.

(Comr Peevey - ALJ Malcolm)

Outcome Signed[D06-05-030](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

25

[5652]

R04-04-003 - Order Instituting Rulemaking to promote policy and program coordination and integration in electric utility resource planning.

This decision grants the request of The Utility Reform Network for intervenor compensation based on its contributions to Decisions 04-07-028, 04-10-035, 04-12-048, 04-12-051, Resolutions E-3902 and E-3896, and for its participation in electric utility procurement review groups. Compensation is granted in the amount of \$378,737.00. This docket remains open for further proceedings.

(Comr Peevey - ALJ Brown)

Outcome Signed[D06-05-031](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

26

[5653]

Res T-17018 - AT&T California (AT&T).

AT&T requests to grandfather Number Retention Service. (Advice Letter 28132, filed March 1, 2006)

Outcome Approved[Res T-17018](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

27

[5654]

Res W-4604 - Tahoe Swiss Village Utility, Inc. (TSVU), Tahoe Swiss Village District.

This resolution authorizes TSVU, Tahoe Swiss Village District a general rate increase, producing additional annual revenue of \$43,539 or 25.7% in test year 2005.

Outcome Approved[Res W-4604](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

28

[5655]

A05-12-001 - Conlin-Strawberry Water Company, Inc. (Conlin-Strawberry).

I03-10-038 - Related matters. This decision approves an all-party, final settlement entered into by the Conlin-Strawberry and its sole owner, Danny Conlin; the Del Oro Water Co. (Del Oro), which already holds a certificate of public convenience and necessity from the Commission; and the Commission's Division of Ratepayer Advocates. The settlement finalizes all pending matters in two related proceedings. The settlement approves the sale and transfer of the Conlin-Strawberry water system to Del Oro, the terms and conditions for satisfying sanctions previously imposed by the Commission against Conlin-Strawberry, and for the dismissal of requests to rehear or modify the Commission's earlier decisions concerning the company. The transfer of the water system, constituting utility-related property, is also approved under Public Utilities Code Section 851. These proceedings are closed.

(Comr Brown - ALJ Thorson)

Outcome Signed[D06-05-032](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

29

[5656]

Res TL-19072 - Crucero U.S.A., L.L.C. (Applicant).

This resolution grants Applicant a passenger stage corporation certificate pursuant to Public Utilities Code Section 1032.5 to conduct scheduled intrastate transportation services on routes over which it provides interstate service under its federal operating authority.

Outcome Approved[Res TL-19072](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

30

[5657]

A06-03-011 - Harbans Singh Dult dba Alaska Airporter (Applicant).

This decision authorizes Applicant to operate as a passenger stage corporation between points in Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Solano Counties, on the one hand, and San Francisco, Oakland, and San Jose International Airports, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

Outcome Signed[D06-05-033](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

31

[5660]

A05-12-030 - Southern California Edison Company (SCE).

Today, the Commission approves a settlement agreement entered into by SCE and all active parties in this proceeding. The Settlement Agreement resolves all disputes in A05-12-030 (Application), an application to approve a contract between SCE and Kern River Cogeneration Company (KRCC). Although the decision adopts the Settlement Agreement as proposed by parties, the Commission has modified two of the provisions. First, although the Settlement Agreement requests that the Commission leaves this proceeding open, or designates or opens another proceeding for approval of similar QF contracts, the Commission declines to do so. Instead, the decision directs Eligible QF parties to file separate applications. In addition, the Commission provides Eligible QF parties an opportunity to petition to reopen this proceeding, if necessary. Second, the Settlement Agreement provides that any above-market costs of the KRCC Contract be allocated to the Competition Transition Charge (CTC). The decision will not adopt this provision because parties who have interests in CTC charges are not represented in this proceeding. The decision has modified this provision and directs SCE to present its recommendation for the treatment of any above-market costs associated with the KRCC Contract, or similar QF contracts, in SCE's Energy Resource Recovery Account proceedings. This proceeding is closed.

(Comr Brown - ALJ DeBerry)

Outcome Signed (Comr. Bohn recused himself from this agenda item and was not part of the quorum in its consideration.)

[D06-05-034](#)

Yes: (Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

32

[5666]

A06-02-025 - CTC Communications Group, Inc., CTC Communications Corp. dba CT Communications Corp. and Choice One Communications Inc.

This decision grants the application of CTC Communications Group, Inc. (CTC), CTC Communications Corp. (CTC Communications) and Choice One Communications, Inc. (Choice 1) for approval of the indirect transfer of control of CTC Communications to the surviving corporation that will result from the merger of CTC and Choice 1. CTC Communications holds a Certificate of Public Convenience and Necessity authorizing the provision of resold local exchange and interexchange services in this state. This transaction will not change the day-to-day management of CTC Communications, or the terms and conditions under which customers receive telecommunications services from CTC Communications. This proceeding is closed.

(Comr Chong - ALJ Prestidge)

Outcome Signed[D06-05-035](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

33

[5668]

A02-11-017 - Pacific Gas and Electric Company.

I03-01-012, A02-09-005 - Related matters. Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending the deadline. The 12 month deadline for resolving this matter is May 25, 2006. An extension is necessary to reasonably accommodate completion of hearings, filing of briefs, issuance of the presiding officer's decision and any ensuing appeal or request for review.

(Comr Peevey - ALJ Halligan)

Outcome Signed[D06-05-036](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

34

[5669]

R03-10-003 - Order Instituting Rulemaking to implement portions of AB 117 concerning community choice aggregation.

This decision awards intervenor compensation of \$61,283.78 to The Utility Reform Network for its contributions to D04-12-046 and D05-12-041; \$39,294.85 to the Community Environmental Council for its contributions to D05-12-041; and \$42,126.54 to Local Power for its contributions to D05-12-041.

(Comr Peevey - ALJ Malcolm)

Outcome Signed[D06-05-037](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

Regular Agenda**Energy Orders****35**

[5486]

A05-01-016 - Pacific Gas and Electric Company.

A05-01-017, A05-01-018 - Related matters. This decision declines to adopt the proposed settlements presented by the parties but instead identifies the Commission's preferred approach to critical peak pricing tariffs that allows for implementation of the settlement tariffs as voluntary rates, effective in Summer 2006, with conversion of all eligible customers to the critical peak pricing settlement tariffs, effective January 1, 2007. The preferred approach provides for bill protection for the first 12 months a customer is on the critical peak pricing tariff, at which point the customer can choose to convert to a standard time of use (TOU) rate. The preferred approach requires the utilities to provide all eligible customers with a bill analysis at the end of the 2006 critical peak period that reflects the customer's actual usage during Summer 2006 under the adopted critical peak pricing rates (as compared to the otherwise applicable TOU rate), and the bill impacts if the customer were to reduce its critical peak period usage by 5, 10, and 20%. The Settling Parties have 20 days from the date of the proposed decision to notify the Commission whether they accept the modified terms. In the event that the Settling Parties do not accept the preferred terms, the Commission will close the applications without adopting critical peak pricing rates, and direct the utilities to incorporate default critical peak pricing tariffs for all eligible customers 200 kilowatts and above into their next comprehensive rate design proceeding. This proceeding is closed.

(Comr Peevey - ALJ Cooke)

Agenda 3172, Item 25 5/11/2006 (Bohn)

Outcome Signed

[D06-05-038](#)

Yes: (Brown, Chong, Grueneich, Peevey)

No: (Bohn)

Abstain: (none)

Absent: (none)

35a

[5559]

ALTERNATE TO ITEM 5486

A05-01-017; A05-01-018 - Related matters. The alternate proposed decision varies from the proposed decision in that it adopts the settlements proposed by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company. Each utility is ordered to file an Advice Letter to implement the terms of its settlements no later than October 1, 2006, with an effective date of January 1, 2007.

(Comr Bohn)

Agenda 3172, Item 25a 5/11/2006 (Bohn)

Outcome Defeated

Yes: (Bohn)

No: (Brown, Chong, Grueneich, Peevey)

Abstain: (none)

Absent: (none)

36

[5615]

R04-04-026 - Order Instituting Rulemaking to implement the California Renewables Portfolio Standard Program.

Each California electrical corporation is required each year to procure a minimum amount of electricity from eligible renewable energy resources, eventually reaching procurement equal to 20% of total retail sales. To fulfill this requirement, each electrical corporation must prepare a procurement plan (Plan). The Commission is required to review and adopt, modify or reject each Plan. In this decision, the Commission conditionally approves for the next procurement cycle each proposed Plan and draft request for offer (RFO) filed by Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E). In doing so, the important items the decision addresses include: (1) allowing deliveries anywhere in California, (2) declining to adopt an incremental procurement target of 1.2% but, in exchange, stressing the importance of each utility continuing to include its own procurement margin of safety and requiring certain additional reporting; (3) retaining existing flexible compliance rules by declining to adopt full earmarking or flexible compliance for 2010; (4) encouraging, and in some cases directing, each utility to take action and amend Plans, such as reducing deposits; (5) removing barriers to program success by adopting several measures; (6) addressing limited elements unique to each utility's Plan; and (7) adopting a schedule for the next solicitation cycle. The draft decision strongly encourages, but does not order, SDG&E to conduct a solicitation in 2006. PG&E, SCE and SDG&E shall each file an amended Plan and amended RFO with the Director of the Energy Division within five days of the date of this decision. Unless suspended by the Energy Division Director within three days, each utility shall proceed to use its amended Plan and RFO for its 2006 RPS program and solicitation. This decision also addresses issues related to a time of delivery benchmarking methodology, but declines to adopt a methodology. The decision incorporates the record from this proceeding into a new Order Instituting Rulemaking, and closes the proceeding.

(Comr Peevey - ALJ Mattson)

Outcome Signed (Comr. Grueneich recused herself from this agenda item and was not part of the quorum in its consideration.)

[D06-05-039](#)

Yes: (Bohn, Brown, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

37

[5623]

R05-02-023 - Order Instituting Rulemaking to revise Commission General Order Numbers 95 and 128.

The Commission on February 24, 2005 issued this Order Instituting Rulemaking 05-02-023 to consider uniform rules for attaching wireless antennas to jointly used utility poles and towers. Following seven days of workshops in San Francisco and Los Angeles, the parties jointly presented a workshop report containing three alternative proposals for a new Rule 94 to General Order 95. The parties reached agreement on most of new Rule 94 but differed on provisions dealing with identification signs, the vertical clearance between supply conductors and wireless antennas with radio frequency (RF) emissions, and exceptions to the rules for certain low-emission antennas. This decision today adopts in its entirety the Rule 94 sponsored by the Commission's Consumer Protection and Services Division, the International Brotherhood of Electrical Workers Local 1245, the Communication Workers of America – Ninth District, Pacific Gas and Electric Company, and San Diego Gas & Electric Company. The decision rejects the assertions of some parties that elements of the new Rule 94 are preempted by Federal Communications Commission (FCC) rules regulating RF exposure, concluding instead that mere acknowledgement of the FCC's RF rules does not preempt a state agency which enacts construction rules intended to provide a safe working environment for those climbing and working on transmission poles. This proceeding is closed.

(Comr Brown - ALJ Walker)

Outcome Held (6/15/06. Further consideration.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

38

[5624]

I05-09-005 - Order Instituting Investigation to facilitate proactive development of transmission infrastructure to access renewable energy resources for California.

This decision evaluates and adopts specific policies and procedures to implement the cost recovery provisions of Pub. Util. Code § 399.25. Section 399.25 was enacted on September 12, 2002, as part of Senate Bill 1078, and is intended to facilitate California's use of renewable energy resources. Section 399.25 directs the Commission to deem necessary those transmission facilities identified in certificate applications if the proposed facilities are necessary to facilitate achievement of the State's renewable power goals. Section 399.25 also provides a "backstop" cost mechanism allowing the utilities to recover through retail rates any costs of the above facilities that are not approved by the Federal Energy Regulatory Commission for recovery through transmission rates. Today's decision clarifies how the Commission intends to implement § 399.25 to provide the utilities and renewable resource developers with the cost recovery assurance to facilitate meeting the Renewable Portfolio Standard goals. This decision adopts principles for implementing the requirements of § 399.25 that are in the public interest, because they will assist in the Commission's effort to ensure that California has the necessary transmission infrastructure in place in order to meet the RPS goals. The decision also modifies certain findings previously adopted in D03-07-033 to reflect the Commission's further consideration and subsequent events.

(Comr Grueneich - ALJ Halligan)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

39 (Rev.)

[5658]

R_____ - Order Instituting Rulemaking to continue implementation and administration of California Renewables Portfolio Standard Program.

This rulemaking continues implementation and administration of the California Renewables Portfolio Standard Program (Pub. Util. Code §§ 399.11 et seq.). This includes oversight of procurement cycles, reporting, compliance and enforcement. As part of the ongoing implementation and administration, the Commission may consider limited other issues.

05/19/2006 - This revision was not shown on the Agenda mailed to the public.

Outcome Signed

[R06-05-027](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

Energy Resolutions and Written Reports**40 Res E-3981 - Southern California Edison Company (SCE).**

[5451] SCE requests confirmation that costs incurred by SCE pursuant to a standstill agreement entered into with Peabody Western Coal Company and the Black Mesa Pipeline Company are fuel-related costs that can be recorded directly into the Energy Resource Recovery Account balancing account. (Advice Letter 1952-E, filed December 29, 2005)
Agenda 3170, Item 67 4/13/2006 (Staff);
Agenda 3172, Item 29 5/11/2006 (Staff)

Outcome Approved[Res E-3981](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

41 Res E-3992 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).

[5586] PG&E filed substitute sheets of Advice Letter (AL) 2793-E to update earlier approved revisions to Schedules for Net Energy Metering (NEM) including Schedules NEM, NEMBIO, NEMFC on March 2, 2006, and to Schedule NEMCT to correct section numbering on March 22, 2006. (PG&E's AL 2793-E, SCE's AL 1969-E, and SDG&E's AL 1777-E, filed February 27, 22 and 27, 2006 respectively)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

42 Res E-3996 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).

[5587] This resolution approves revision of Rule 21, Generating Facility Interconnections, Section C, including a charge for repeat verifications of commissioning testing; Section E, incorporating the former as customer's cost responsibility; Section F, clarifying the requirements for metering; Section G, modifying the dispute resolution process; and Section H, changing the term Net Generation Output Metering, in compliance with D05-08-013. (PG&E's Advice Letter (AL) 2792-E, SCE's AL 1971-E, and SDG&E's 1776-E, filed on February 24, 27 and 27, 2006, respectively)

Outcome Approved[Res E-3996](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

43

[5621]

Res E-3991 - San Diego Gas & Electric Company (SDG&E).

SDG&E's notice of intent to close the Mountain Empire and San Clemente Branch Offices on May 1, 2006 and to relocate its San Diego Branch Office. Approved with modifications. (Advice Letter 1779-E, filed February 28, 2006)

Outcome Approved[Res E-3991](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Orders**44 A05-07-024 - Pacific Bell Telephone Company, dba SBC California.**

[5638]

The decision confirms the assigned Administrative Law Judge's (ALJ) ruling granting, in part, the enforcement of D06-01-043. The ruling determines that the resale proxy rate proposed by AT&T California (AT&T) is inconsistent with the requirement in D06-01-043 that AT&T charge total service resale rates for those lines that have not yet transitioned from the Unbundled Network Element Platform. The ALJ analyzed the assumptions used by the Competitive Local Exchange Carriers to develop their \$20 resale rate and those used by AT&T to develop its \$37.24 resale rate. The ALJ adjusted the assumptions on local usage and access charges to create a blended resale rate of \$25.19. (Comr Peevey - ALJ Jones)

Outcome Signed[D06-05-040](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**45 R _____ - Rulemaking on the Commission's own motion to review the
[5673] Telecommunications Public Policy Programs.**

This order opens a proceeding to review the Telecommunications Public Policy Programs – California Lifeline, California Telephone Access Program (formerly Deaf and Disabled), California Teleconnect Fund, Pay Phone Enforcement, and Public Policy Pay Phone Programs.

Outcome Signed[R06-05-028](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Resolutions and Reports**46****Res T-17024 - SBC California (SBC).**

[5550]

This resolution addresses SBC's monthly and annual ARMIS data on initial and repeat out-of-service intervals for residential customers for 2005. It grants SBC's request for waiver from penalty exemption during months when states of emergency were declared; it grants a penalty waiver for ROOS for all of 2005; it partially denies a waiver for IOOS; and it orders a penalty of \$2.4 million for noncompliance with IOOS standards.

Agenda 3172, Item 30 5/11/2006 (Staff)

Outcome Held (7/20/06. For alternate order.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Water/Sewer Resolutions and Reports

47

[5647]

Res W-4603 - Cottage Springs Water Company (Cottage Springs).

This resolution authorizes Cottage Springs a general rate increase producing additional annual revenue of \$1,846 or 74.5% in 2006.

Outcome Approved

[Res W-4603](#)

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

Other Utility Orders

48

[5106]

R04-09-003 - Order Instituting Rulemaking on the Commission's own motion for the purpose of considering policies and guidelines regarding the allocation of gains from sales of energy, telecommunications, and water utility assets.

This decision adopts a process for allocating gains on sale received by certain electric, gas, telecommunications and water utilities when they sell utility land, assets such as buildings, or other tangible or intangible assets formerly used to serve utility customers. In most cases, utility ratepayers should receive 100% of the gain from depreciable property such as buildings, and 50% of the gain from non-depreciable property such as land and water rights, based on our finding that ratepayers bear many of the risks associated with owning such property. The utilities' shareholders should receive the remaining 50% gain on sale, partly to compensate for some financial risk borne by the utility and partly as an incentive to manage its assets wisely. This rule of thumb will apply to routine asset sales where the sale price is \$50 million or less and the after-tax gain or loss from the sale is \$10 million or less. Most ordinary asset sales that come before this Commission for approval should meet these criteria. This decision does not apply to routine retirements of minor utility assets that are no longer used and useful, such as utility poles, transformers, and vehicles, which are governed by Commission depreciation rules and schedules. The rule we develop here will not apply where the asset sale price exceeds \$50 million or the after-tax gain or loss exceeds \$10 million. The rule also does not apply to utility sales of assets of extraordinary character; sales of nuclear power plants; where a party alleges the utility engaged in highly risky and non-utility-related ventures; or where a party alleges the utility grossly mismanaged the assets at issue.

(Comr Brown - ALJ Thomas)

Agenda 3164, Item 57 12/15/2005 (Staff);

Agenda 3166, Item 46 1/26/2006 (Staff);

Agenda 3167, Item 60 2/16/2006 (Chong);

Agenda 3168, Item 32 3/2/2006 (Peevey);

Agenda 3169, Item 28 3/15/2006 (Chong);

Agenda 3170, Item 77 4/13/2006 (Staff);

Agenda 3171, Item 56 4/27/2006 (Brown);

Agenda 3172, Item 32 5/11/2006 (Brown)

Outcome Signed (Comr. Grueneich reserves the right to file a dissent; may join Pres. Peevey's dissent. Pres. Peevey will file a dissent.)

[D06-05-041](#)

Yes: (Bohn, Brown, Chong)

No: (Grueneich, Peevey)

Abstain: (none)

Absent: (none)

48a (Rev.)

[5524]

ALTERNATE TO ITEM 5106

This decision adopts a process for allocating gains on sale received by certain electric, gas, telecommunications and water utilities when they sell utility land, assets such as buildings, or other tangible or intangible assets formerly used to serve utility customers. For non-depreciable property, utility ratepayers and ratepayers should split the gains 50-50 based on our finding that both bear risks associated with owning such property. For depreciable property, ratepayers will receive 100% of the gains or losses from the sale. These rules of thumb will apply to routine asset sales where the after-tax sale price is \$50 million or less, or where the gain or loss from the sale is \$10 million or less. The rules we develop here, however, will not apply where the after-tax asset sale price exceeds \$50 million or the gain or loss exceeds \$10 million. The rules also do not apply to utility sales of assets of extraordinary character; sales of nuclear power plants; where a party alleges the utility engaged in highly risky and non-utility-related ventures; or where a party alleges the utility grossly mismanaged the assets at issue.

(Comr Chong)

Agenda 3170, Item 77a 4/13/2006 (Staff);

Agenda 3171, Item 56a 4/27/2006 (Brown);

Agenda 3172, Item 32a 5/11/2006 (Brown)

05/23/2006 - This revision was not shown on the Agenda mailed to the public.

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Legislative Matters - Discussion**49**

[5397]

SB 850 (Escutia)

Broadband service strategy report by state Chief Information Officer.

Agenda 3169, Item 36 3/15/2006 (Staff);

Agenda 3170, Item 83 4/13/2006 (Staff);

Agenda 3171, Item 58 4/27/2006 (Staff);

Agenda 3172, Item 34 5/11/2006 (Staff)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

50

[5398]

SB 1010 (Florez)

Intermodal facility in Shafter and track capacity reporting requirements.

Agenda 3169, Item 37 3/15/2006 (Staff);

Agenda 3170, Item 84 4/13/2006 (Staff);

Agenda 3171, Item 59 4/27/2006 (Staff);

Agenda 3172, Item 35 5/11/2006 (Staff)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

51

[5513]

SB 1539 (Kehoe)

San Diego Assn. of Governments Energy Working Group.

Agenda 3170, Item 98 4/13/2006 (Staff);

Agenda 3171, Item 60 4/27/2006 (Staff);

Agenda 3172, Item 36 5/11/2006 (Staff)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

52

[5573]

AB 2104 (Lieber)

CARE: master-meter customer.

Agenda 3171, Item 61 4/27/2006 (Staff);

Agenda 3172, Item 37 5/11/2006 (Staff)

Outcome Approved (Legislative Subcommittee Recommendation: Support with technical amendments.)

AB 2104

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

53

[5581]

SB 1311 (Soto)

Liability waivers: in-language requirements (railroads).

Agenda 3171, Item 69 4/27/2006 (Chong);

Agenda 3172, Item 38 5/11/2006 (Thomas)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

54

[5609]

AB 2630 (Benoit)

Grade separation project funding.

Agenda 3172, Item 41 5/11/2006 (Staff)

Outcome Approved (Legislative Subcommittee Recommendation: Support.)

AB 2630

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

55

[5610]

SB 440 (Speier)

Telco: mobile data and mobile telephony services: charges for unauthorized services.

Agenda 3172, Item 42 5/11/2006 (Staff)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

56

[5611]

SB 1534 (Alarcon)

Coordinated low-income program eligibility assistance.

Agenda 3172, Item 43 5/11/2006 (Staff)

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

57

[5661]

AB 2207 (Blakeslee)

Thermal power plants.

Outcome Approved (Legislative Subcommittee Recommendation: Support.)

AB 2207

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

58

[5662]

AB 2321 (Canciamilla)

Energy: Governor's Green Action Team.

Outcome Approved (Legislative Subcommittee Recommendation: Support with technical amendments.)

AB 2321

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

59

[5663]

AB 2617 (Saldana)

Solar training program.

Outcome Approved (Legislative Subcommittee Recommendation: Support with technical amendments.)

AB 2617

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

60

[5664]

SB 1496 (Dunn)

Public utilities: CA Alternate Rates for Energy (CARE) Program.

Outcome Approved (Legislative Subcommittee Recommendation: Support with technical amendments.)

SB 1496

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

61

[5665]

SB 351 (Soto)

Railroads: derailment evacuation plans & training.

Outcome Approved (Legislative Subcommittee Recommendation: Support.)

SB 351

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

Commissioner's Reports

62

Commissioner Grueneich Report

[5667]

Discussion and possible action adopting the California Memorandum of Understanding in Support of the National Action Plan for Energy Efficiency.

Outcome Held (6/29/06. Further revisions.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the

Applications for Rehearing

64

[5480]

A04-04-008 - Conference with Legal Counsel - Application for Rehearing

A04-06-018 - Related matters. Disposition of Application for Rehearing of D05-09-018 filed by Aglet Consumer Alliance. In D05-09-018 the Commission approved the Joint Proposal of Southern California Edison Company and Pacific Gas and Electric Company, with modification, for uniform Economic Development Rate discount tariffs for the two utilities.

Agenda 3170, Item 111 4/13/2006 (Staff);

Agenda 3171, Item 76 4/27/2006 (Staff);

Agenda 3172, Item 48 5/11/2006 (Staff)

Outcome Signed

D06-05-042

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

65

[5649]

R03-09-005 - Conference with Legal Counsel - Application for Rehearing

Disposition of Application for Rehearing of D06-02-010, filed by the Division of Ratepayer Advocates. In D06-02-010, the Commission adopted an advice letter process to allow Class A water utilities to seek waivers of Rate Case Plan requirements, modified certain filing requirements, and resolved outstanding Phase II issues.

Outcome Held (6/15/06.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

66

[5659]

A05-05-010 - Conference with Legal Counsel - Application for Rehearing

A05-05-013 - Related matters. Disposition of the applications for rehearing filed by the City of Morro Bay and the Coastal Alliance on Plant Expansion of Resolution (Res.) E-3929. Res. E-3929 grants approval of a three-year physical tolling agreement between Duke Energy Marketing Americas and Pacific Gas and Electric Company concerning purchase of the output of Duke's Morro Bay Generation Units 3 and 4.

Outcome Signed

D06-05-043

Yes: (Bohn, Brown, Chong, Grueneich, Peevey)

No: (none)

Abstain: (none)

Absent: (none)